General Assembly

Distr.: General
16 December 2004

Fifty-ninth session
Agenda item 138

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/504)*]

59/34. Nationality of natural persons in relation to the succession of States

The General Assembly,

Having examined the item entitled "Nationality of natural persons in relation to the succession of States",

Recalling its resolution 54/112 of 9 December 1999, in which it decided to consider at its fifty-fifth session the draft articles on nationality of natural persons in relation to the succession of States prepared by the International Law Commission,

Recalling also its resolution 55/153 of 12 December 2000, the annex to which contains the articles on nationality of natural persons in relation to the succession of States,

Taking into consideration the comments and observations of Governments[1] and the discussion held in the Sixth Committee at the fifty-ninth session of the General Assembly[2] on the question of nationality of natural persons in relation to the succession of States, in particular, to preventing the occurrence of statelessness as a result of a succession of States,

Taking note, in this regard, of the efforts made at the regional level towards the elaboration of a legal instrument on the avoidance of statelessness in relation to State succession,

1. *Reiterates its invitation* to Governments to take into account, as appropriate, the provisions of the articles contained in the annex to resolution 55/153, in dealing with issues of nationality of natural persons in relation to the succession of States;

2. *Encourages* States to consider, as appropriate, at the regional or subregional levels, the elaboration of legal instruments regulating questions of nationality of natural persons in relation to the succession of States, with a view, in

[1] A/59/180 and Add.1 and 2.

[2] *Official Records of the General Assembly, Fifty-ninth Session, Sixth Committee, 15th meeting* (A/C.6/59/SR.15), and corrigendum.

particular, to preventing the occurrence of statelessness as a result of a succession of States;

3. *Invites* Governments to submit comments concerning the advisability of elaborating a legal instrument on the question of nationality of natural persons in relation to the succession of States, including the avoidance of statelessness as a result of a succession of States;

4. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "Nationality of natural persons in relation to the succession of States".

65th plenary meeting
2 December 2004

General Assembly

Distr.: General
16 December 2004

Fifty-ninth session
Agenda item 139

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/505)*]

59/35. Responsibility of States for internationally wrongful acts

The General Assembly,

Recalling its resolution 56/83 of 12 December 2001, the annex to which contains the text of the articles on responsibility of States for internationally wrongful acts,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of responsibility of States for internationally wrongful acts is of major importance in relations between States,

1. *Commends once again* the articles on responsibility of States for internationally wrongful acts to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action;

2. *Requests* the Secretary-General to invite Governments to submit their written comments on any future action regarding the articles;

3. *Also requests* the Secretary-General to prepare an initial compilation of decisions of international courts, tribunals and other bodies referring to the articles and to invite Governments to submit information on their practice in this regard, and further requests the Secretary-General to submit this material well in advance of its sixty-second session;

4. *Decides* to include in the provisional agenda of its sixty-second session the item entitled "Responsibility of States for internationally wrongful acts".

65th plenary meeting
2 December 2004

General Assembly

Distr.: General
16 December 2004

Fifty-ninth session
Agenda item 140

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/506)*]

59/36. Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992, 49/48 of 9 December 1994, 51/155 of 16 December 1996, 53/96 of 8 December 1998, 55/148 of 12 December 2000 and 57/14 of 19 November 2002,

Having considered the report of the Secretary-General,[1]

Thanking Member States and the International Committee of the Red Cross for their contribution to the report of the Secretary-General,

Convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I[2] to the Geneva Conventions of 1949,[3]

Stressing also the possibility for the International Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

Stressing further the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and

[1] A/59/321.

[2] United Nations, *Treaty Series*, vol. 1125, No. 17512.

[3] Ibid., vol. 75, Nos. 970-973.

expressing concern about all violations of the Geneva Conventions and the two Additional Protocols,[4]

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the two Additional Protocols,

Recalling that the Twenty-eighth International Conference of the Red Cross and Red Crescent stressed the need to reinforce the implementation of and respect for international humanitarian law,

Noting the fiftieth anniversary of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague in 1954,[5] which was observed in May 2004, as well as the commemorative events organized in particular by or in cooperation with the United Nations Educational, Scientific and Cultural Organization and the International Committee of the Red Cross, and recalling the important achievement of enhancing the protection of cultural property in the event of armed conflicts,

Recalling the entry into force, on 9 March 2004, of the second Protocol[6] to the 1954 Hague Convention, and appreciating the ratifications received so far,

Acknowledging the fact that the Rome Statute of the International Criminal Court,[7] which entered into force on 1 July 2002, includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Acknowledging also the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Appreciates* the virtually universal acceptance of the Geneva Conventions of 1949,[3] and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;[4]

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[4] Ibid., vol. 1125, Nos. 17512 and 17513.

[5] Ibid., vol. 249, No. 3511.

[6] *International Legal Materials*, vol. XXXVIII, p. 769.

[7] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I,[2] or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict[5] and the two Protocols thereto, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

6. *Notes with appreciation* the Declaration and Agenda for Humanitarian Action adopted by the Twenty-eighth International Conference of the Red Cross and Red Crescent, which noted that all States must take national measures to implement international humanitarian law, including training of the armed forces and making this law known among the general public, as well as the adoption of legislation to punish war crimes in accordance with their international obligations;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective;

8. *Welcomes* the advisory service activities of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;

9. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;

10. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[8]

11. *Requests* the Secretary-General to submit to the General Assembly at its sixty-first session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. *Decides* to include in the provisional agenda of its sixty-first session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

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[8] Resolution 54/263, annex I.

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Fifty-ninth session
Agenda item 141

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/507)*]

59/37. Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

The General Assembly,

Having considered the report of the Secretary-General,[1]

Conscious of the need to develop and strengthen friendly relations and cooperation among States,

Convinced that respect for the principles and rules of international law governing diplomatic and consular relations is a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations,

Alarmed by the recent acts of violence against diplomatic and consular representatives, as well as against representatives of international intergovernmental organizations and officials of such organizations, which have endangered or taken innocent lives and seriously impeded the normal work of such representatives and officials,

Expressing sympathy for the victims of such illegal acts,

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives,

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

Recalling also that diplomatic and consular premises must not be used in any manner incompatible with the functions of diplomatic and consular missions,

Emphasizing the duty of States to take all appropriate measures as required by international law, including measures of a preventive nature, and to bring offenders to justice,

[1] A/59/125 and Add.1.

Welcoming measures already taken by States to this end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established pursuant to General Assembly resolution 35/168 of 15 December 1980 and further elaborated in subsequent Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. *Takes note* of the report of the Secretary-General;[1]

2. *Strongly condemns* acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;

3. *Urges* States to strictly observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

4. *Also urges* States to take all necessary measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above, and to ensure, with the participation of the United Nations where appropriate, that such acts are fully investigated with a view to bringing offenders to justice;

5. *Recommends* that States cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to the exchange of information on the circumstances of all serious violations thereof;

6. *Urges* States to take all appropriate measures, in accordance with international law, at the national and international levels, to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;

7. *Recommends* that States cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its juridical authorities in order to bring offenders to justice;

8. *Calls upon* States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

9. *Calls upon* States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means available for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

10. *Requests*:

(*a*) All States to report to the Secretary-General as promptly as possible serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

(*b*) The State in which the violation took place — and, to the extent possible, the State where the alleged offender is present — to report to the Secretary-General as promptly as possible on measures taken to bring the offender to justice and eventually to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and to report on measures adopted with a view to preventing a repetition of such violations;

(*c*) The States so reporting to consider using or taking into account the guidelines prepared by the Secretary-General;[2]

11. *Requests* the Secretary-General:

(*a*) To send, without delay, a circular note to all States reminding them of the request contained in paragraph 10 above;

(*b*) To circulate to all States, upon receipt, the reports received by him pursuant to paragraph 10 above, unless the reporting State requests otherwise;

(*c*) To draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 10 above, when a serious violation has been reported pursuant to paragraph 10 (*a*) above;

(*d*) To address reminders to States where such violations have occurred if reports pursuant to paragraph 10 (*a*) above or follow-up reports pursuant to paragraph 10 (*b*) above have not been made within a reasonable period of time;

12. *Also requests* the Secretary-General to invite States, in the circular note referred to in paragraph 11 (*a*) above, to inform him of their views with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

13. *Further requests* the Secretary-General to submit to the General Assembly at its sixty-first session a report containing:

(*a*) Information on the state of ratification of, and accessions to, the instruments referred to in paragraph 8 above;

(*b*) A summary of the reports received and views expressed pursuant to paragraphs 10 and 12 above;

14. *Invites* the Secretary-General to include in his report to the General Assembly any views he may wish to express on the matters referred to in paragraph 13 above;

[2] A/42/485, annex.

15. *Decides* to include in the provisional agenda of its sixty-first session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives".

65th plenary meeting
2 December 2004

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Agenda item 142

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/508)*]

59/38. United Nations Convention on Jurisdictional Immunities of States and Their Property

The General Assembly,

Bearing in mind Article 13, paragraph 1 (a), of the Charter of the United Nations,

Recalling its resolution 32/151 of 19 December 1977, in which it recommended that the International Law Commission take up the study of the law of jurisdictional immunities of States and their property with a view to its progressive development and codification, and its subsequent resolutions 46/55 of 9 December 1991, 49/61 of 9 December 1994, 52/151 of 15 December 1997, 54/101 of 9 December 1999, 55/150 of 12 December 2000, 56/78 of 12 December 2001, 57/16 of 19 November 2002 and 58/74 of 9 December 2003,

Recalling also that the International Law Commission submitted a final set of draft articles, with commentaries, on the law of jurisdictional immunities of States and their property in chapter II of its report on the work of its forty-third session,[1]

Recalling further the reports of the open-ended Working Group of the Sixth Committee,[2] as well as the report of the Working Group on Jurisdictional Immunities of States and Their Property of the International Law Commission,[3] submitted in accordance with General Assembly resolution 53/98 of 8 December 1998,

Recalling that in its resolution 55/150 it decided to establish the Ad Hoc Committee on Jurisdictional Immunities of States and Their Property, open also to participation by States members of the specialized agencies, to further the work done, consolidate areas of agreement and resolve outstanding issues with a view to elaborating a generally acceptable instrument based on the draft articles on jurisdictional immunities of States and their property adopted by the International

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[1] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10* (A/46/10).

[2] A/C.6/54/L.12 and A/C.6/55/L.12.

[3] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 10* and corrigenda (A/54/10 and Corr.1 and 2), annex.

Law Commission and also on the discussions of the open-ended Working Group of the Sixth Committee,

Having considered the report of the Ad Hoc Committee on Jurisdictional Immunities of States and Their Property,[4]

Stressing the importance of uniformity and clarity in the law of jurisdictional immunities of States and their property, and emphasizing the role of a convention in this regard,

Noting the broad support for the conclusion of a convention on jurisdictional immunities of States and their property,

Taking into account the statement of the Chairman of the Ad Hoc Committee introducing the report of the Ad Hoc Committee,[5]

1. *Expresses its deep appreciation* to the International Law Commission and the Ad Hoc Committee on Jurisdictional Immunities of States and Their Property for their valuable work on the law of jurisdictional immunities of States and their property;

2. *Agrees* with the general understanding reached in the Ad Hoc Committee that the United Nations Convention on Jurisdictional Immunities of States and Their Property does not cover criminal proceedings;

3. *Adopts* the United Nations Convention on Jurisdictional Immunities of States and Their Property, which is contained in the annex to the present resolution, and requests the Secretary-General as depositary to open it for signature;

4. *Invites* States to become parties to the Convention.

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Annex

United Nations Convention on Jurisdictional Immunities of States and Their Property

The States Parties to the present Convention,

Considering that the jurisdictional immunities of States and their property are generally accepted as a principle of customary international law,

Having in mind the principles of international law embodied in the Charter of the United Nations,

Believing that an international convention on the jurisdictional immunities of States and their property would enhance the rule of law and legal certainty, particularly in dealings of States with natural or juridical persons, and would contribute to the codification and development of international law and the harmonization of practice in this area,

Taking into account developments in State practice with regard to the jurisdictional immunities of States and their property,

[4] Ibid., *Fifty-ninth Session, Supplement No. 22* (A/59/22).

[5] Ibid., *Fifty-ninth Session, Sixth Committee*, 13th meeting (A/C.6/59/SR.13), and corrigendum.

Affirming that the rules of customary international law continue to govern matters not regulated by the provisions of the present Convention,

Have agreed as follows:

Part I
Introduction

Article 1
Scope of the present Convention

The present Convention applies to the immunity of a State and its property from the jurisdiction of the courts of another State.

Article 2
Use of terms

1. For the purposes of the present Convention:

(*a*) "court" means any organ of a State, however named, entitled to exercise judicial functions;

(*b*) "State" means:

(i) the State and its various organs of government;

(ii) constituent units of a federal State or political subdivisions of the State, which are entitled to perform acts in the exercise of sovereign authority, and are acting in that capacity;

(iii) agencies or instrumentalities of the State or other entities, to the extent that they are entitled to perform and are actually performing acts in the exercise of sovereign authority of the State;

(iv) representatives of the State acting in that capacity;

(*c*) "commercial transaction" means:

(i) any commercial contract or transaction for the sale of goods or supply of services;

(ii) any contract for a loan or other transaction of a financial nature, including any obligation of guarantee or of indemnity in respect of any such loan or transaction;

(iii) any other contract or transaction of a commercial, industrial, trading or professional nature, but not including a contract of employment of persons.

2. In determining whether a contract or transaction is a "commercial transaction" under paragraph 1 (*c*), reference should be made primarily to the nature of the contract or transaction, but its purpose should also be taken into account if the parties to the contract or transaction have so agreed, or if, in the practice of the State of the forum, that purpose is relevant to determining the non-commercial character of the contract or transaction.

3. The provisions of paragraphs 1 and 2 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in other international instruments or in the internal law of any State.

Article 3
Privileges and immunities not affected by the present Convention

1. The present Convention is without prejudice to the privileges and immunities enjoyed by a State under international law in relation to the exercise of the functions of:

(*a*) its diplomatic missions, consular posts, special missions, missions to international organizations or delegations to organs of international organizations or to international conferences; and

(*b*) persons connected with them.

2. The present Convention is without prejudice to privileges and immunities accorded under international law to heads of State *ratione personae*.

3. The present Convention is without prejudice to the immunities enjoyed by a State under international law with respect to aircraft or space objects owned or operated by a State.

Article 4
Non-retroactivity of the present Convention

Without prejudice to the application of any rules set forth in the present Convention to which jurisdictional immunities of States and their property are subject under international law independently of the present Convention, the present Convention shall not apply to any question of jurisdictional immunities of States or their property arising in a proceeding instituted against a State before a court of another State prior to the entry into force of the present Convention for the States concerned.

Part II
General principles

Article 5
State immunity

A State enjoys immunity, in respect of itself and its property, from the jurisdiction of the courts of another State subject to the provisions of the present Convention.

Article 6
Modalities for giving effect to State immunity

1. A State shall give effect to State immunity under article 5 by refraining from exercising jurisdiction in a proceeding before its courts against another State and to that end shall ensure that its courts determine on their own initiative that the immunity of that other State under article 5 is respected.

2. A proceeding before a court of a State shall be considered to have been instituted against another State if that other State:

(*a*) is named as a party to that proceeding; or

(*b*) is not named as a party to the proceeding but the proceeding in effect seeks to affect the property, rights, interests or activities of that other State.

Article 7
Express consent to exercise of jurisdiction

1. A State cannot invoke immunity from jurisdiction in a proceeding before a court of another State with regard to a matter or case if it has expressly consented to the exercise of jurisdiction by the court with regard to the matter or case:

(*a*) by international agreement;

(*b*) in a written contract; or

(*c*) by a declaration before the court or by a written communication in a specific proceeding.

2. Agreement by a State for the application of the law of another State shall not be interpreted as consent to the exercise of jurisdiction by the courts of that other State.

Article 8
Effect of participation in a proceeding before a court

1. A State cannot invoke immunity from jurisdiction in a proceeding before a court of another State if it has:

(*a*) itself instituted the proceeding; or

(*b*) intervened in the proceeding or taken any other step relating to the merits. However, if the State satisfies the court that it could not have acquired knowledge of facts on which a claim to immunity can be based until after it took such a step, it can claim immunity based on those facts, provided it does so at the earliest possible moment.

2. A State shall not be considered to have consented to the exercise of jurisdiction by a court of another State if it intervenes in a proceeding or takes any other step for the sole purpose of:

(*a*) invoking immunity; or

(*b*) asserting a right or interest in property at issue in the proceeding.

3. The appearance of a representative of a State before a court of another State as a witness shall not be interpreted as consent by the former State to the exercise of jurisdiction by the court.

4. Failure on the part of a State to enter an appearance in a proceeding before a court of another State shall not be interpreted as consent by the former State to the exercise of jurisdiction by the court.

Article 9
Counterclaims

1. A State instituting a proceeding before a court of another State cannot invoke immunity from the jurisdiction of the court in respect of any counterclaim arising out of the same legal relationship or facts as the principal claim.

2. A State intervening to present a claim in a proceeding before a court of another State cannot invoke immunity from the jurisdiction of the court in respect of any counterclaim arising out of the same legal relationship or facts as the claim presented by the State.

3. A State making a counterclaim in a proceeding instituted against it before a court of another State cannot invoke immunity from the jurisdiction of the court in respect of the principal claim.

Part III
Proceedings in which State immunity cannot be invoked

Article 10
Commercial transactions

1. If a State engages in a commercial transaction with a foreign natural or juridical person and, by virtue of the applicable rules of private international law, differences relating to the commercial transaction fall within the jurisdiction of a court of another State, the State cannot invoke immunity from that jurisdiction in a proceeding arising out of that commercial transaction.

2. Paragraph 1 does not apply:

(*a*) in the case of a commercial transaction between States; or

(*b*) if the parties to the commercial transaction have expressly agreed otherwise.

3. Where a State enterprise or other entity established by a State which has an independent legal personality and is capable of:

(*a*) suing or being sued; and

(*b*) acquiring, owning or possessing and disposing of property, including property which that State has authorized it to operate or manage,

is involved in a proceeding which relates to a commercial transaction in which that entity is engaged, the immunity from jurisdiction enjoyed by that State shall not be affected.

Article 11
Contracts of employment

1. Unless otherwise agreed between the States concerned, a State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to a contract of employment between the State and an individual for work performed or to be performed, in whole or in part, in the territory of that other State.

2. Paragraph 1 does not apply if:

(*a*) the employee has been recruited to perform particular functions in the exercise of governmental authority;

(*b*) the employee is:

(i) a diplomatic agent, as defined in the Vienna Convention on Diplomatic Relations of 1961;

(ii) a consular officer, as defined in the Vienna Convention on Consular Relations of 1963;

(iii) a member of the diplomatic staff of a permanent mission to an international organization or of a special mission, or is recruited to represent a State at an international conference; or

(iv) any other person enjoying diplomatic immunity;

(*c*) the subject-matter of the proceeding is the recruitment, renewal of employment or reinstatement of an individual;

(*d*) the subject-matter of the proceeding is the dismissal or termination of employment of an individual and, as determined by the head of State, the head of Government or the Minister for Foreign Affairs of the employer State, such a proceeding would interfere with the security interests of that State;

(*e*) the employee is a national of the employer State at the time when the proceeding is instituted, unless this person has the permanent residence in the State of the forum; or

(*f*) the employer State and the employee have otherwise agreed in writing, subject to any considerations of public policy conferring on the courts of the State of the forum exclusive jurisdiction by reason of the subject-matter of the proceeding.

Article 12
Personal injuries and damage to property

Unless otherwise agreed between the States concerned, a State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to pecuniary compensation for death or injury to the person, or damage to or loss of tangible property, caused by an act or omission which is alleged to be attributable to the State, if the act or omission occurred in whole or in part in the territory of that other State and if the author of the act or omission was present in that territory at the time of the act or omission.

Article 13
Ownership, possession and use of property

Unless otherwise agreed between the States concerned, a State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to the determination of:

(*a*) any right or interest of the State in, or its possession or use of, or any obligation of the State arising out of its interest in, or its possession or use of, immovable property situated in the State of the forum;

(*b*) any right or interest of the State in movable or immovable property arising by way of succession, gift or *bona vacantia*; or

(*c*) any right or interest of the State in the administration of property, such as trust property, the estate of a bankrupt or the property of a company in the event of its winding up.

Article 14
Intellectual and industrial property

Unless otherwise agreed between the States concerned, a State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to:

(*a*) the determination of any right of the State in a patent, industrial design, trade name or business name, trademark, copyright or any other form of intellectual

or industrial property which enjoys a measure of legal protection, even if provisional, in the State of the forum; or

(*b*) an alleged infringement by the State, in the territory of the State of the forum, of a right of the nature mentioned in subparagraph (*a*) which belongs to a third person and is protected in the State of the forum.

Article 15
Participation in companies or other collective bodies

1. A State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to its participation in a company or other collective body, whether incorporated or unincorporated, being a proceeding concerning the relationship between the State and the body or the other participants therein, provided that the body:

(*a*) has participants other than States or international organizations; and

(*b*) is incorporated or constituted under the law of the State of the forum or has its seat or principal place of business in that State.

2. A State can, however, invoke immunity from jurisdiction in such a proceeding if the States concerned have so agreed or if the parties to the dispute have so provided by an agreement in writing or if the instrument establishing or regulating the body in question contains provisions to that effect.

Article 16
Ships owned or operated by a State

1. Unless otherwise agreed between the States concerned, a State which owns or operates a ship cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to the operation of that ship if, at the time the cause of action arose, the ship was used for other than government non-commercial purposes.

2. Paragraph 1 does not apply to warships, or naval auxiliaries, nor does it apply to other vessels owned or operated by a State and used, for the time being, only on government non-commercial service.

3. Unless otherwise agreed between the States concerned, a State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to the carriage of cargo on board a ship owned or operated by that State if, at the time the cause of action arose, the ship was used for other than government non-commercial purposes.

4. Paragraph 3 does not apply to any cargo carried on board the ships referred to in paragraph 2, nor does it apply to any cargo owned by a State and used or intended for use exclusively for government non-commercial purposes.

5. States may plead all measures of defence, prescription and limitation of liability which are available to private ships and cargoes and their owners.

6. If in a proceeding there arises a question relating to the government and non-commercial character of a ship owned or operated by a State or cargo owned by a State, a certificate signed by a diplomatic representative or other competent authority of that State and communicated to the court shall serve as evidence of the character of that ship or cargo.

Article 17
Effect of an arbitration agreement

If a State enters into an agreement in writing with a foreign natural or juridical person to submit to arbitration differences relating to a commercial transaction, that State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to:

(*a*) the validity, interpretation or application of the arbitration agreement;

(*b*) the arbitration procedure; or

(*c*) the confirmation or the setting aside of the award,

unless the arbitration agreement otherwise provides.

Part IV
State immunity from measures of constraint in connection with proceedings before a court

Article 18
State immunity from pre-judgment measures of constraint

No pre-judgment measures of constraint, such as attachment or arrest, against property of a State may be taken in connection with a proceeding before a court of another State unless and except to the extent that:

(*a*) the State has expressly consented to the taking of such measures as indicated:

(i) by international agreement;

(ii) by an arbitration agreement or in a written contract; or

(iii) by a declaration before the court or by a written communication after a dispute between the parties has arisen; or

(*b*) the State has allocated or earmarked property for the satisfaction of the claim which is the object of that proceeding.

Article 19
State immunity from post-judgment measures of constraint

No post-judgment measures of constraint, such as attachment, arrest or execution, against property of a State may be taken in connection with a proceeding before a court of another State unless and except to the extent that:

(*a*) the State has expressly consented to the taking of such measures as indicated:

(i) by international agreement;

(ii) by an arbitration agreement or in a written contract; or

(iii) by a declaration before the court or by a written communication after a dispute between the parties has arisen; or

(*b*) the State has allocated or earmarked property for the satisfaction of the claim which is the object of that proceeding; or

(*c*) it has been established that the property is specifically in use or intended for use by the State for other than government non-commercial purposes and is in the territory of the State of the forum, provided that post-judgment measures of constraint may only be taken against property that has a connection with the entity against which the proceeding was directed.

Article 20
Effect of consent to jurisdiction to measures of constraint

Where consent to the measures of constraint is required under articles 18 and 19, consent to the exercise of jurisdiction under article 7 shall not imply consent to the taking of measures of constraint.

Article 21
Specific categories of property

1. The following categories, in particular, of property of a State shall not be considered as property specifically in use or intended for use by the State for other than government non-commercial purposes under article 19, subparagraph (*c*):

(*a*) property, including any bank account, which is used or intended for use in the performance of the functions of the diplomatic mission of the State or its consular posts, special missions, missions to international organizations or delegations to organs of international organizations or to international conferences;

(*b*) property of a military character or used or intended for use in the performance of military functions;

(*c*) property of the central bank or other monetary authority of the State;

(*d*) property forming part of the cultural heritage of the State or part of its archives and not placed or intended to be placed on sale;

(*e*) property forming part of an exhibition of objects of scientific, cultural or historical interest and not placed or intended to be placed on sale.

2. Paragraph 1 is without prejudice to article 18 and article 19, subparagraphs (*a*) and (*b*).

Part V
Miscellaneous provisions

Article 22
Service of process

1. Service of process by writ or other document instituting a proceeding against a State shall be effected:

(*a*) in accordance with any applicable international convention binding on the State of the forum and the State concerned; or

(*b*) in accordance with any special arrangement for service between the claimant and the State concerned, if not precluded by the law of the State of the forum; or

(*c*) in the absence of such a convention or special arrangement:

(i) by transmission through diplomatic channels to the Ministry of Foreign Affairs of the State concerned; or

(ii) by any other means accepted by the State concerned, if not precluded by the law of the State of the forum.

2. Service of process referred to in paragraph 1 (*c*) (i) is deemed to have been effected by receipt of the documents by the Ministry of Foreign Affairs.

3. These documents shall be accompanied, if necessary, by a translation into the official language, or one of the official languages, of the State concerned.

4. Any State that enters an appearance on the merits in a proceeding instituted against it may not thereafter assert that service of process did not comply with the provisions of paragraphs 1 and 3.

Article 23
Default judgment

1. A default judgment shall not be rendered against a State unless the court has found that:

(*a*) the requirements laid down in article 22, paragraphs 1 and 3, have been complied with;

(*b*) a period of not less than four months has expired from the date on which the service of the writ or other document instituting a proceeding has been effected or deemed to have been effected in accordance with article 22, paragraphs 1 and 2; and

(*c*) the present Convention does not preclude it from exercising jurisdiction.

2. A copy of any default judgment rendered against a State, accompanied if necessary by a translation into the official language or one of the official languages of the State concerned, shall be transmitted to it through one of the means specified in article 22, paragraph 1, and in accordance with the provisions of that paragraph.

3. The time-limit for applying to have a default judgment set aside shall not be less than four months and shall begin to run from the date on which the copy of the judgment is received or is deemed to have been received by the State concerned.

Article 24
Privileges and immunities during court proceedings

1. Any failure or refusal by a State to comply with an order of a court of another State enjoining it to perform or refrain from performing a specific act or to produce any document or disclose any other information for the purposes of a proceeding shall entail no consequences other than those which may result from such conduct in relation to the merits of the case. In particular, no fine or penalty shall be imposed on the State by reason of such failure or refusal.

2. A State shall not be required to provide any security, bond or deposit, however described, to guarantee the payment of judicial costs or expenses in any proceeding to which it is a respondent party before a court of another State.

Part VI
Final clauses

Article 25
Annex

The annex to the present Convention forms an integral part of the Convention.

Article 26
Other international agreements

Nothing in the present Convention shall affect the rights and obligations of States Parties under existing international agreements which relate to matters dealt with in the present Convention as between the parties to those agreements.

Article 27
Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of the present Convention through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which cannot be settled through negotiation within six months shall, at the request of any of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of, or accession to, the present Convention, declare that it does not consider itself bound by paragraph 2. The other States Parties shall not be bound by paragraph 2 with respect to any State Party which has made such a declaration.

4. Any State Party that has made a declaration in accordance with paragraph 3 may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

Article 28
Signature

The present Convention shall be open for signature by all States until 17 January 2007, at United Nations Headquarters, New York.

Article 29
Ratification, acceptance, approval or accession

1. The present Convention shall be subject to ratification, acceptance or approval.

2. The present Convention shall remain open for accession by any State.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 30
Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the present Convention after the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after

the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 31
Denunciation

1. Any State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations. The present Convention shall, however, continue to apply to any question of jurisdictional immunities of States or their property arising in a proceeding instituted against a State before a court of another State prior to the date on which the denunciation takes effect for any of the States concerned.

3. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in the present Convention to which it would be subject under international law independently of the present Convention.

Article 32
Depositary and notifications

1. The Secretary-General of the United Nations is designated the depositary of the present Convention.

2. As depositary of the present Convention, the Secretary-General of the United Nations shall inform all States of the following:

(*a*) signatures of the present Convention and the deposit of instruments of ratification, acceptance, approval or accession or notifications of denunciation, in accordance with articles 29 and 31;

(*b*) the date on which the present Convention will enter into force, in accordance with article 30;

(*c*) any acts, notifications or communications relating to the present Convention.

Article 33
Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention are equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention opened for signature at United Nations Headquarters in New York on 17 January 2005.

Annex to the Convention

Understandings with respect to certain provisions of the Convention

The present annex is for the purpose of setting out understandings relating to the provisions concerned.

With respect to article 10

The term "immunity" in article 10 is to be understood in the context of the present Convention as a whole.

Article 10, paragraph 3, does not prejudge the question of "piercing the corporate veil", questions relating to a situation where a State entity has deliberately misrepresented its financial position or subsequently reduced its assets to avoid satisfying a claim, or other related issues.

With respect to article 11

The reference in article 11, paragraph 2 (*d*), to the "security interests" of the employer State is intended primarily to address matters of national security and the security of diplomatic missions and consular posts.

Under article 41 of the 1961 Vienna Convention on Diplomatic Relations and article 55 of the 1963 Vienna Convention on Consular Relations, all persons referred to in those articles have the duty to respect the laws and regulations, including labour laws, of the host country. At the same time, under article 38 of the 1961 Vienna Convention on Diplomatic Relations and article 71 of the 1963 Vienna Convention on Consular Relations, the receiving State has a duty to exercise its jurisdiction in such a manner as not to interfere unduly with the performance of the functions of the mission or the consular post.

With respect to articles 13 and 14

The expression "determination" is used to refer not only to the ascertainment or verification of the existence of the rights protected, but also to the evaluation or assessment of the substance, including content, scope and extent, of such rights.

With respect to article 17

The expression "commercial transaction" includes investment matters.

With respect to article 19

The expression "entity" in subparagraph (*c*) means the State as an independent legal personality, a constituent unit of a federal State, a subdivision of a State, an agency or instrumentality of a State or other entity, which enjoys independent legal personality.

The words "property that has a connection with the entity" in subparagraph (*c*) are to be understood as broader than ownership or possession.

Article 19 does not prejudge the question of "piercing the corporate veil", questions relating to a situation where a State entity has deliberately misrepresented its financial position or subsequently reduced its assets to avoid satisfying a claim, or other related issues.

General Assembly

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16 December 2004

Fifty-ninth session
Agenda item 143

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/509)*]

59/39. Report of the United Nations Commission on International Trade Law on the work of its thirty-seventh session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having considered the report of the Commission on its thirty-seventh session,[1]

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

[1] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17* (A/59/17).

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on its thirty-seventh session;[1]

2. *Commends* the Commission for the completion and adoption of its Legislative Guide on Insolvency Law;[2]

3. *Also commends* the Commission for the progress made in the work on a draft convention on electronic contracting, on a draft instrument on transport law, on a draft legislative guide on secured transactions and on model legislative provisions on interim measures in international commercial arbitration, and for the Commission's decision to undertake a revision of its Model Law on Procurement of Goods, Construction and Services[3] to reflect new practices, including those resulting from the increasing use of electronic communications in public procurement;[4]

4. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

5. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with training and legislative technical assistance in the field of international trade law, and in this connection:

(*a*) Welcomes the Commission's initiatives towards expanding, through its secretariat, its training and legislative technical assistance programme;

(*b*) Expresses its appreciation to the Commission for organizing seminars and briefing missions in Azerbaijan, Colombia, Serbia and Montenegro, the Sudan, Thailand, Venezuela and Yemen;

(*c*) Expresses its appreciation to the Governments whose contributions enabled the seminars and briefing missions to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in carrying out training and legislative technical assistance activities, in particular in developing countries;

(*d*) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the training and legislative technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission;

6. *Takes note with regret* that, since the previous session of the Commission, no contributions have been made to the trust fund established to

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[2] Ibid., chap. III.

[1] Ibid., *Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

[4] Ibid., *Fifty-ninth Session, Supplement No. 17* (A/59/17), chap. VIII, paras. 81 and 82.

provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, stresses the need for contributions to the trust fund in order to increase expert representation from developing countries at sessions of the Commission and its working groups, and reiterates its appeal to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund;

7. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the fifty-ninth session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

8. *Recalls* its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector,[5] and in this regard welcomes the Commission's consideration of the means of actively engaging non-State actors in its work,[6] and encourages the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of training and technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat;

9. *Approves*, in conformity with its resolutions on documentation-related matters, which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the documents,[7] the conclusions reached by the Commission in paragraphs 124 to 128 of its report[1] regarding the imposition of page limits on its documentation, and requests the Secretary-General to bear in mind the particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

10. *Also approves* the conclusions of the Commission in paragraph 130 of its report regarding the need for the continuing provision of summary records of its meetings relating to the formulation of normative texts;

11. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and, to this end, urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

12. *Notes* that 2005 will mark the twenty-fifth anniversary of the adoption of the United Nations Convention on Contracts for the International Sale of Goods[8] and the twentieth anniversary of the adoption of the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law,[9] and in this regard welcomes initiatives being undertaken to organize

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[5] Resolutions 55/215, 56/76 and 58/129.

[6] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17* (A/59/17), chap. XV, sect. A.

[7] Resolutions 57/283 B, section III, para. 29, and 58/250, section III, paras. 2 and 17.

[8] United Nations, *Treaty Series*, vol. 1489, No. 25567.

[9] *Official Records of the General Assembly, Fortieth Session, Supplement No. 17* (A/40/17), annex I.

conferences and similar events to provide a forum for assessing the experience, in particular of courts and arbitral tribunals, with those texts;

13. *Expresses its appreciation* for the preparation of a digest of case law on the United Nations Convention on Contracts for the International Sale of Goods, intended to assist in the dissemination of information on the Convention and promote its adoption, use and uniform interpretation, and for the progress of work on a digest of case law relating to the Model Law on International Commercial Arbitration.

65th plenary meeting
2 December 2004

General Assembly

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16 December 2004

Fifty-ninth session
Agenda item 143

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/509)*]

59/40. Legislative Guide on Insolvency Law of the United Nations Commission on International Trade Law

The General Assembly,

Recognizing the importance to all countries of strong, effective and efficient insolvency regimes as a means of encouraging economic development and investment,

Noting the growing realization that reorganization regimes are critical to corporate and economic recovery, the development of entrepreneurial activity, the preservation of employment and the availability of finance in the capital market,

Noting also the importance of social policy issues to the design of an insolvency regime,

Noting with satisfaction the completion and adoption of the Legislative Guide on Insolvency Law of the United Nations Commission on International Trade Law by the Commission at its thirty-seventh session, on 25 June 2004,[1]

Believing that the Legislative Guide, which includes the text of the Model Law on Cross-Border Insolvency and the Guide to Enactment recommended by the General Assembly in its resolution 52/158 of 15 December 1997, contributes significantly to the establishment of a harmonized legal framework for insolvency and will be useful both to States that do not have an effective and efficient insolvency regime and to States that are undertaking a process of review and modernization of their insolvency regimes,

Recognizing the need for cooperation and coordination between international organizations active in the field of insolvency law reform to ensure consistency and alignment of that work and to facilitate the development of international standards,

Noting that the preparation of the Legislative Guide was the subject of due deliberations and extensive consultations with Governments and international intergovernmental and non-governmental organizations active in the field of insolvency law reform,

[1] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17* (A/59/17), chap. III.

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for the completion and adoption of its Legislative Guide on Insolvency Law;[1]

2. *Requests* the Secretary-General to publish the Legislative Guide and to make all efforts to ensure that it becomes generally known and available;

3. *Recommends* that all States give due consideration to the Legislative Guide when assessing the economic efficiency of their insolvency regimes and when revising or adopting legislation relevant to insolvency;

4. *Recommends also* that all States continue to consider implementation of the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law.

65th plenary meeting
2 December 2004

General Assembly

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Fifty-ninth session
Agenda item 144

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/510)*]

59/41. Report of the International Law Commission on the work of its fifty-sixth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifty-sixth session,[1]

Emphasizing the importance of furthering the codification and progressive development of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

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[1] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 10* (A/59/10).

[2] Resolution 2625 (XXV), annex.

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the General Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its fifty-sixth session,[1] and recommends that the Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the General Assembly;

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its fifty-sixth session, in particular for the completion of the first reading of draft articles on Diplomatic protection and of the draft principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities;

3. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects involved in the topics on the agenda of the Commission identified in chapter III of its report and in particular on:

(*a*) The draft articles and commentary on Diplomatic protection;

(*b*) The draft principles on Allocation of loss in the case of transboundary harm arising out of hazardous activities;

4. *Invites* Governments, within the context of paragraph 3 above, to provide information to the International Law Commission regarding:

(*a*) Their practice, bilateral or regional, relating to the allocation of groundwaters from transboundary aquifer systems and the management of non-renewable transboundary aquifer systems relating to the topic currently entitled "Shared natural resources";

(*b*) State practice on the topic " Unilateral acts of States";

5. *Endorses* the decision of the International Law Commission to include in its agenda the topics "Expulsion of aliens" and "Effects of armed conflicts on treaties";

6. *Takes note* of paragraphs 362 and 363 of the report of the International Law Commission with regard to its long-term programme of work and the syllabus on the new topic annexed to the report;

7. *Invites* the International Law Commission to continue taking measures to enhance its efficiency and productivity;

8. *Encourages* the International Law Commission to continue taking cost-saving measures at its future sessions;

9. *Takes note* of paragraph 370 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 2 May to 3 June and from 4 July to 5 August 2005;

10. *Welcomes* the enhanced dialogue between the International Law Commission and the Sixth Committee at the fifty-ninth session of the General Assembly, stresses the desirability of further enhancing the dialogue between the two bodies, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixtieth session of the Assembly;

11. *Encourages* delegations, during the debate on the report of the International Law Commission to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

12. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

13. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

14. *Takes note* of paragraphs 371 to 376 of the report of the International Law Commission with regard to cooperation with other bodies, and encourages the Commission to continue the implementation of article 16, paragraph (*e*), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

15. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

16. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission;

17. *Approves* the conclusions reached by the International Law Commission in paragraph 367 of its report and reaffirms its previous decisions concerning the documentation and summary records of the International Law Commission;[3]

18. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend the Seminar, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

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[3] See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly.

19. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;

20. *Also requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fifty-ninth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

21. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

22. *Recommends* that the debate on the report of the International Law Commission at the sixtieth session of the General Assembly commence on 24 October 2005.

65th plenary meeting
2 December 2004

General Assembly

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Fifty-ninth session
Agenda item 145

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/511)*]

59/42. Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,[1]

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,[2] the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations[3] and the responsibilities of the host country,

Recalling also that, in accordance with paragraph 7 of General Assembly resolution 2819 (XXVI) of 15 December 1971, the Committee should consider, and advise the host country on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

1. *Endorses* the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 26 of its report;[1]

2. *Considers* that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which is an issue of great importance, are in the interest of the United Nations and all Member States, and requests the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions;

[1] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 26* (A/59/26).

[2] Resolution 22 A (I).

[3] See resolution 169 (II).

3. *Notes* that the Committee conducted an initial detailed review of the implementation of the Parking Programme for Diplomatic Vehicles, [4] as recommended by the Legal Counsel in his opinion on 24 September 2002,[5] with a view to addressing the problems experienced by some permanent missions during the first year of the Programme and continuously ensuring its proper implementation in a manner that is fair, non-discriminatory, effective and therefore consistent with international law, and that it shall remain seized of the matter;

4. *Expresses its appreciation* for the efforts made by the host country, and hopes that the issues raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

5. *Notes* that during the reporting period some travel restrictions previously imposed by the host country on staff of certain missions and staff members of the Secretariat of certain nationalities were removed, and requests the host country to consider removing the remaining travel restrictions, and in this regard notes the positions of affected States, of the Secretary-General and of the host country;

6. *Notes also* that the Committee anticipates that the host country will enhance its efforts to ensure the issuance, in a timely manner, of entry visas to representatives of Member States, pursuant to article IV, section 11, of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,[3] inter alia, for the purpose of their attending official United Nations meetings;

7. *Requests* the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

8. *Requests* the Committee to continue its work in conformity with General Assembly resolution 2819 (XXVI);

9. *Decides* to include in the provisional agenda of its sixtieth session the item entitled "Report of the Committee on Relations with the Host Country".

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[4] A/AC.154/355, annex.
[5] A/AC.154/358, annex.

General Assembly

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16 December 2004

Fifty-ninth session
Agenda item 146

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/512)*]

59/43. International Criminal Court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994, 50/46 of 11 December 1995, 51/207 of 17 December 1996, 52/160 of 15 December 1997, 53/105 of 8 December 1998, 54/105 of 9 December 1999, 55/155 of 12 December 2000, 56/85 of 12 December 2001, 57/23 of 19 November 2002 and 58/79 of 9 December 2003,

Noting that the Rome Statute of the International Criminal Court[1] was adopted on 17 July 1998 and entered into force on 1 July 2002,

Noting also the adoption of the Regulations of the International Criminal Court,[2] the entry into force of the Agreement on the Privileges and Immunities of the Court,[3] the opening of the first investigations by the Prosecutor and the constitution of the Pre-Trial Chambers of the Court,

Acknowledging the Relationship Agreement between the United Nations and the International Criminal Court ("Relationship Agreement") as approved by the Assembly of States Parties on 7 September 2004 and by the General Assembly in its resolution 58/318 of 13 September 2004,[4] including paragraph 3 of the resolution with respect to the full reimbursement of expenses resulting from the implementation of the Relationship Agreement,[5] and signed by the United Nations and the Court on 4 October 2004, thereby entering into force,

Reiterating the historic significance of the adoption of the Rome Statute of the International Criminal Court,

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[1] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

[2] ICC-BD/01-01-04.

[3] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.E.

[4] See A/58/874 and Add.1.

[5] Articles 10 and 13 of the Relationship Agreement.

1. *Calls upon* all States that are not yet parties to the Rome Statute of the International Criminal Court[1] to consider ratifying or acceding to it without delay, and encourages efforts aimed at promoting awareness of the results of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome from 15 June to 17 July 1998, the provisions of the Statute and the process leading to the establishment of the International Criminal Court;

2. *Calls upon* all States to consider becoming parties to the Agreement on the Privileges and Immunities of the International Criminal Court[3] without delay;

3. *Welcomes* the holding of the third session of the Assembly of States Parties in The Hague from 6 to 10 September 2004, and also welcomes the election of the new President of the Assembly of States Parties, new members to the Committee on Budget and Finance and the second Deputy-Prosecutor, and the important decisions taken on that occasion, including the establishment of the secretariat of the Board of Directors of the Trust Fund for Victims, as well as the adoption of a number of resolutions;[4]

4. *Recalls* the establishment of the Special Working Group on the Crime of Aggression by the Assembly of States Parties to the Rome Statute of the International Criminal Court, open to all States on an equal footing;

5. *Expresses its appreciation* to the Secretary-General for providing effective and efficient assistance in the establishment of the International Criminal Court;

6. *Takes note* of the statement by the President of the Security Council of 6 October 2004,[7] in which the Secretary-General is thanked for his report on the rule of law,[8] in which reference was made to a number of efforts, in particular by the International Criminal Court to promote justice and the rule of law;

7. *Welcomes* the report of the Secretary-General on the work of the Organization,[9] in which references were made to the International Criminal Court;

8. *Welcomes also* the steps taken as explained in the note by the Secretariat on the International Criminal Court,[10] amongst which were those to close the various trust funds administered by the Secretary-General relating to the establishment of the Court and subsequent activities;

9. *Recalls* that pursuant to article 4, paragraph 2, of the Relationship Agreement,[11] the International Criminal Court may attend and participate in the work of the General Assembly in the capacity of observer and that pursuant to article 6 of the Relationship Agreement the Court may submit reports on its activities to the fifty-ninth and following sessions of the General Assembly;

10. *Decides* to include in the provisional agenda of its sixtieth session an item entitled "Report of the International Criminal Court", under which shall be considered, with the Court invited to attend and to participate, pursuant to article 4,

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[4] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (ICC-ASP/3/25).

[7] S/PRST/2004/34; see *Resolutions and Decisions of the Security Council, 1 August 2004-31 July 2005*.

[8] S/2004/616.

[9] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 1* (A/59/1).

[10] A/59/356.

[11] A/58/874, annex.

paragraph 2, of the Relationship Agreement, any report of the International Criminal Court, pursuant to article 6 of the Relationship Agreement.

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2 December 2004

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Agenda item 147

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/513)*]

59/44. Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council,[1]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Recalling further that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Considering the desirability of finding practical ways and means to strengthen the Court, taking into consideration, in particular, the needs resulting from its increased workload,

[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 47* (A/56/47).

Taking note of the ongoing debate on the revised working papers on the working methods of the Special Committee,

Taking note also of the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*,[2]

Recalling its resolution 58/248 of 23 December 2003,

Having considered the report of the Special Committee on the work of its session held in 2004,[3]

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[3]

2. *Decides* that the Special Committee shall hold its next session from 14 to 24 March 2005;

3. *Requests* the Special Committee, at its session in 2005, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(*a*) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2005;

(*b*) To continue to consider, on a priority basis and in an appropriate substantive manner and framework, the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General[4] and the proposals submitted on the question;

(*c*) To keep on its agenda the question of the peaceful settlement of disputes between States;

(*d*) To continue to consider proposals concerning the Trusteeship Council in the light of the report of the Secretary-General submitted in accordance with General Assembly resolution 50/55 of 11 December 1995,[5] the report of the Secretary-General entitled "Renewing the United Nations: a programme for reform"[6] and the views expressed by States on this subject at previous sessions of the Assembly;

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[1] A/59/189.

[2] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 33* (A/59/33).

[3] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346 and A/59/334.

[4] A/50/1011.

[5] A/51/950 and Add.1-7.

(*e*) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency with a view to identifying widely acceptable measures for future implementation;

4. *Invites* the Special Committee at its session in 2005 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

5. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

6. *Requests* the Special Committee to submit a report on its work to the General Assembly at its sixtieth session;

7. *Takes note* of paragraphs 10 and 17 of the report of the Secretary-General;[2]

8. *Endorses* the efforts of the Secretary-General to eliminate the backlog in the publication of the *Repertoire of the Practice of the Security Council*;

9. *Requests* the Secretary-General to establish a trust fund to eliminate the backlog of the *Repertory of Practice of United Nations Organs*, which shall accept voluntary contributions by States, private institutions and individuals;

10. *Also requests* the Secretary-General to continue his efforts, within the level of the currently approved budget, towards making available electronically all versions of the *Repertory of Practice of United Nations Organs* as early as possible;

11. *Further requests* the Secretary-General to submit a report on both the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* to the General Assembly at its sixtieth session;

12. *Decides* to include in the provisional agenda of its sixtieth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

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Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/513)*]

59/45. Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

The General Assembly,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recognizing the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

Recalling:

(*a*) The report of the Secretary-General entitled "An Agenda for Peace",[1] in particular paragraph 41 thereof,

(*b*) Its resolution 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", its resolution 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof, entitled "Special economic problems arising from the implementation of preventive or enforcement measures", and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", in particular annex II thereto, entitled "Question of sanctions imposed by the United Nations",

(*c*) The position paper of the Secretary-General entitled "Supplement to an Agenda for Peace",[2]

[1] A/47/277-S/24111.
[2] A/50/60-S/1995/1.

(*d*) The statement by the President of the Security Council of 22 February 1995,[3]

(*e*) The report of the Secretary-General[4] prepared pursuant to the statement by the President of the Security Council[5] regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter,

(*f*) The annual overview reports of the Administrative Committee on Coordination for the period from 1992 to 2000[6] and the annual overview reports of the United Nations System Chief Executives Board for Coordination for 2001 to 2003,[7] in particular the sections on assistance to countries invoking Article 50 of the Charter,

(*g*) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia[8] and General Assembly resolutions 48/210 of 21 December 1993, 49/21 A of 2 December 1994, 50/58 E of 12 December 1995, 51/30 A of 5 December 1996, 52/169 H of 16 December 1997, 54/96 G of 15 December 1999, 55/170 of 14 December 2000 and 56/110 of 14 December 2001,

(*h*) The reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the work of its sessions held in the years 1994 to 2004,[9]

(*i*) The reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,[10]

(*j*) The report of the Secretary-General to the Millennium Assembly of the United Nations,[11] in particular section IV.E thereof, entitled "Targeting sanctions",

(*k*) The United Nations Millennium Declaration,[12] in particular paragraph 9 thereof,

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[3] S/PRST/1995/9, see *Resolutions and Decisions of the Security Council, 1995*.

[4] A/48/573-S/26705.

[5] S/25036, see *Resolutions and Decisions of the Security Council, 1992*.

[6] E/1993/81, E/1994/19, E/1995/21, E/1996/18 and Add.1, E/1997/54 and Corr.1, E/1998/21, E/1999/48, E/2000/53 and E/2001/55.

[7] E/2002/55, E/2003/55 and E/2004/67.

[8] A/49/356, A/50/423, A/51/356, A/52/535, A/54/534, A/55/620 and Corr.1, A/56/632 and A/58/358.

[9] *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33* (A/49/33); ibid., *Fiftieth Session, Supplement No. 33* (A/50/33); ibid., *Fifty-first Session, Supplement No. 33* (A/51/33); ibid., *Fifty-second Session, Supplement No. 33* and corrigendum (A/52/33 and Corr.1); ibid., *Fifty-third Session, Supplement No. 33* (A/53/33); ibid., *Fifty-fourth Session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1); ibid., *Fifty-fifth Session, Supplement No. 33* (A/55/33); ibid., *Fifty-sixth Session, Supplement No. 33* (A/56/33); ibid., *Fifty-seventh Session, Supplement No. 33* (A/57/33); ibid., *Fifty-eighth Session, Supplement No. 33* (A/58/33); and ibid., *Fifty-ninth Session, Supplement No. 33* (A/59/33).

[10] A/50/361, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346 and A/59/334.

[11] A/54/2000.

[12] See resolution 55/2.

(*l*) The report of the Secretary-General entitled "Road map towards implementation of the United Nations Millennium Declaration",[13] in particular paragraphs 56 to 61 thereof,

(*m*) The report of the Committee for Programme and Coordination on the work of its forty-third session, in particular the recommendation that the Chief Executives Board play a role in better coordinating the analysis of the problems of the countries invoking Article 50 of the Charter, and the development of new methodologies to identify the damage to affected States and new mechanisms to determine the appropriate compensation for them,[14]

Taking note of the report of the Secretary-General on the work of the Organization,[15] in particular paragraphs 78 to 81 thereof,

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly, the Security Council, the Economic and Social Council and their subsidiary organs,

Recalling also the measures taken by the Security Council, in accordance with the statement by the President of the Security Council of 16 December 1994,[16] that, as part of the effort of the Council to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations, there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Recalling further the measures taken by the Security Council in accordance with the note by the President of the Security Council of 29 January 1999[17] aimed at improving the work of the sanctions committees, including increasing the effectiveness and transparency of those committees,

Stressing that, in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

Stressing also, in this context, the powers of the Security Council under Chapter VII of the Charter and the primary responsibility of the Council under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

Recalling that, under Article 31 of the Charter, any Member of the United Nations that is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that the imposition of sanctions under Chapter VII of the Charter has been causing special economic problems in third States and that it is necessary to intensify efforts to address those problems effectively,

Taking into consideration the views of third States which could be affected by the imposition of sanctions,

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[13] A/56/326; see also the report of the Secretary-General on the implementation of the United Nations Millennium Declaration (A/58/323), para. 23.

[14] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 16* (A/58/16), para. 581.

[15] Ibid., *Fifty-ninth Session, Supplement No. 1* (A/59/1).

[16] See S/PRST/1994/81; see *Resolutions and Decisions of the Security Council, 1994*.

[17] S/1999/92; see *Resolutions and Decisions of the Security Council, 1999*.

Recognizing that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

Recognizing also that the international community at large and, in particular, international institutions involved in providing economic and financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive or enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economies of those States,

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002 and 58/80 of 9 December 2003,

1. *Renews its invitation* to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

2. *Welcomes* the measures taken by the Security Council since the adoption of General Assembly resolution 50/51, most recently the note by the President of the Security Council of 18 December 2003,[18] whereby the members of the Security Council agreed to extend the mandate of the informal working group of the Council established in 2000[19] to develop general recommendations on how to improve the effectiveness of United Nations sanctions, looks forward to the adoption of the proposed outcome document of the working group, in particular those provisions thereof regarding the issues of the unintended impact of sanctions and assistance to States in implementing sanctions, and strongly recommends that the Council continue its efforts to enhance further the effectiveness and transparency of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

3. *Invites* the Security Council, its sanctions committees and the Secretariat to continue to ensure, as appropriate, that:

(*a*) Both pre-assessment reports and ongoing assessment reports include as part of their analysis the likely and actual unintended impact of the sanctions on third States and recommend ways in which the negative impact of sanctions can be mitigated;

(*b*) Sanctions committees provide opportunities for third States affected by sanctions to brief them on the unintended impact of sanctions they are experiencing and on assistance needed by them to mitigate the negative impact of sanctions;

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[18] S/2003/1185; see *Resolutions and Decisions of the Security Council, 1 August 2003-31 July 2004*.

[19] S/2000/319.

(*c*) The Secretariat continues to provide, upon request, advice and information to third States to help them to pursue means to mitigate the unintended impact of sanctions, for example, on invoking Article 50 of the Charter for consultation with the Security Council;

(*d*) Where economic sanctions have had severe effects on third States, the Security Council is able to request the Secretary-General to consider appointing a special representative or dispatching, as necessary, fact-finding missions on the ground to undertake necessary assessments and to identify, as appropriate, possible ways of assistance;

(*e*) The Security Council is able, in the context of situations referred to in subparagraph (*d*) above, to consider establishing working groups to consider such situations;

4. *Requests* the Secretary-General to pursue the implementation of General Assembly resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157, 56/87, 57/25 and 58/80 and to ensure that the competent units within the Secretariat develop the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

5. *Welcomes* the report of the Secretary-General containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States,[20] and renews its invitation to States and relevant international organizations within and outside the United Nations system that have not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

6. *Takes note* of the most recent report of the Secretary-General on this question[21] and, in particular, of his views on the deliberations and main findings, including the recommendations of the ad hoc expert group on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, as well as the views of States, the organizations of the United Nations system, international financial institutions and other international organizations, as contained in the previous reports of the Secretary-General;[22]

7. *Reaffirms* the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts of the international community and the United Nations system on behalf of States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

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[20] A/53/312

[21] A/59/334

[22] See A/54/383 and Add.1, A/55/295 and Add.1, A/57/165 and Add.1 and A/58/346.

8. *Takes note* of the decision of the Economic and Social Council, in its resolution 2000/32 of 28 July 2000, to continue its consideration of the question of assistance to third States affected by the application of sanctions, invites the Council, at its organizational session for 2005, to make appropriate arrangements for this purpose within its programme of work for 2005, further invites the Council to continue its consideration of the question of assistance to third States affected by the application of sanctions, and decides to transmit the most recent report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, together with the relevant background materials, to the Council at its substantive session of 2005;

9. *Invites* the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, the special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings, as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

10. *Requests* the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 2005, to continue to consider on a priority basis and in an appropriate substantive manner and framework the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General, in particular the 1998 report containing a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162,[20] together with the most recent report of the Secretary-General on this question,[21] taking into consideration the forthcoming report of the informal working group of the Security Council on general issues relating to sanctions, the proposals submitted on the question, the debate on the question in the Sixth Committee during the fifty-ninth session of the Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to Assembly resolution 51/242, as well as the implementation of the provisions of Assembly resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157, 56/87, 57/25, 58/80 and the present resolution;

11. *Decides* to consider within the Sixth Committee or a working group of the Committee, at the sixtieth session of the General Assembly, further progress in the elaboration of effective measures aimed at the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter;

12. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its sixtieth session, under the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

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Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/514)*]

59/46. Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[1]

Recalling also the United Nations Millennium Declaration,[2]

Recalling further the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, and welcoming the celebration this year of the tenth anniversary of its adoption, and recalling the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to resolution 51/210 of 17 December 1996,

Recalling all General Assembly and Security Council resolutions on measures to eliminate international terrorism,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Reaffirming its strong condemnation of the heinous acts of terrorism that have caused enormous loss of human life, destruction and damage, including those which prompted the adoption of General Assembly resolution 56/1 of 12 September 2001 as well as Security Council resolutions 1368 (2001) of 12 September 2001, 1373 (2001) of 28 September 2001 and 1377 (2001) of 12 November 2001, and those that have occurred since the adoption of General Assembly resolution 58/81 of 9 December 2003,

[1] See resolution 50/6.

[2] See resolution 55/2.

Recalling the strong condemnation of the atrocious and deliberate attack against the headquarters of the United Nations Assistance Mission for Iraq in Baghdad on 19 August 2003 in General Assembly resolution 57/338 of 15 September 2003 and Security Council resolution 1502 (2003) of 26 August 2003,

Affirming that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Stressing the need to strengthen further international cooperation among States and among international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, in accordance with the principles of the Charter, international law and the relevant international conventions,

Noting the role of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism in monitoring the implementation of that resolution, including the taking of the necessary financial, legal and technical measures by States and the ratification or acceptance of the relevant international conventions and protocols,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism, and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Mindful also of the essential need to strengthen international, regional and subregional cooperation aimed at enhancing the national capacity of States to prevent and suppress effectively international terrorism in all its forms and manifestations,

Reiterating its call upon States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Emphasizing that tolerance and the enhancement of dialogue among civilizations are among the most important elements in promoting cooperation and success in combating terrorism,

Reaffirming that no terrorist act can be justified in any circumstances,

Taking note of the Final Document of the Thirteenth Conference of Heads of State or Government of Non-Aligned Countries, adopted in Kuala Lumpur on 25 February 2003,[3] which reiterated the collective position of the Movement of Non-Aligned Countries on terrorism and reaffirmed the previous initiative of the Twelfth Conference of Heads of State or Government of Non-Aligned Countries, held in Durban, South Africa, from 29 August to 3 September 1998,[4] calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, as well as other relevant initiatives,

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[3] A/57/759-S/2003/332, annex I.

[4] See A/53/667-S/1998/1071, annex I, paras. 149-162.

Bearing in mind the recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism, including those identified in the annex to the present resolution,

Recalling its decision in resolutions 54/110 of 9 December 1999, 55/158 of 12 December 2000, 56/88 of 12 December 2001, 57/27 of 19 November 2002 and 58/81 that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Aware of its resolutions 57/219 of 18 December 2002 and 58/187 of 22 December 2003,

Noting regional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of and adherence to regional conventions,

Having examined the report of the Secretary-General,[1] the report of the Ad Hoc Committee established by resolution 51/210[2] and the report of the Working Group of the Sixth Committee established pursuant to resolution 58/81,[3]

1. *Strongly condemns* all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed;

2. *Reiterates* that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

3. *Reiterates its call upon* all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider in particular the implementation of the measures set out in paragraphs 3 (*a*) to (*f*) of resolution 51/210;

4. *Also reiterates its call upon* all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

5. *Reiterates its call upon* States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

6. *Urges* States to ensure that their nationals or other persons and entities within their territory that wilfully provide or collect funds for the benefit of persons or entities who commit, or attempt to commit, facilitate or participate in the

[1] A/59/210 and Corr.1

[2] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 37* (A/59/37).

[3] A/C.6/59/L.10

commission of terrorist acts are punished by penalties consistent with the grave nature of such acts;

7. *Reminds* States of their obligations under relevant international conventions and protocols and Security Council resolutions, including Security Council resolution 1373 (2001), to ensure that perpetrators of terrorist acts are brought to justice;

8. *Reaffirms* that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter, international law and relevant international conventions;

9. *Urges* all States that have not yet done so to consider, as a matter of priority, and in accordance with Security Council resolutions 1373 (2001) and 1566 (2004) of 8 October 2004, becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings[5] and the International Convention for the Suppression of the Financing of Terrorism,[6] and calls upon all States to enact, as appropriate, the domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts, and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

10. *Urges* States to cooperate with the Secretary-General and with one another, as well as with interested intergovernmental organizations, with a view to ensuring, where appropriate within existing mandates, that technical and other expert advice is provided to those States requiring and requesting assistance in becoming parties to and implementing the conventions and protocols referred to in paragraph 9 above;

11. *Notes with appreciation and satisfaction* that, consistent with the call contained in paragraph 7 of resolution 58/81, a number of States became parties to the relevant conventions and protocols referred to therein, thereby realizing the objective of wider acceptance and implementation of those conventions;

12. *Reaffirms* the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, and calls upon all States to implement them;

13. *Calls upon* all States to cooperate to prevent and suppress terrorist acts;

14. *Urges* all States and the Secretary-General, in their efforts to prevent international terrorism, to make the best use of the existing institutions of the United Nations;

15. *Welcomes* the continuing efforts of the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime in Vienna, after reviewing existing possibilities within the United Nations system, to enhance, through its mandate, the capabilities of the United Nations in the prevention of terrorism, and recognizes, in the context of Security Council resolution 1373 (2001), its role in assisting States in becoming parties to and implementing the relevant international conventions and protocols relating to terrorism;

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[5] Resolution 52/164, annex.

[6] Resolution 54/109, annex.

16. *Invites* regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism, as well as on intergovernmental meetings held by those organizations;

17. *Notes* the progress attained in the elaboration of the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism during the meetings of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and the Working Group of the Sixth Committee established pursuant to General Assembly resolution 58/81;

18. *Decides* that the Ad Hoc Committee shall, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism and to resolve the outstanding issues relating to the elaboration of the draft international convention for the suppression of acts of nuclear terrorism as a means of further developing a comprehensive legal framework of conventions dealing with international terrorism, and shall keep on its agenda the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations;

19. *Decides also* that the Ad Hoc Committee shall meet from 28 March to 1 April 2005 in order to fulfil the mandate referred to in paragraph 18 above, and that the work shall continue, if necessary, during the sixtieth session of the General Assembly, within the framework of the Working Group of the Sixth Committee;

20. *Requests* the Secretary-General to continue to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

21. *Also requests* the Secretary-General to make a comprehensive inventory of the response of the Secretariat to terrorism as part of his report on measures to eliminate international terrorism;

22. *Requests* the Ad Hoc Committee to report to the General Assembly at its fifty-ninth session in the event of the completion of the draft comprehensive convention on international terrorism or the draft international convention for the suppression of acts of nuclear terrorism;

23. *Also requests* the Ad Hoc Committee to report to the General Assembly at its sixtieth session on progress made in the implementation of its mandate;

24. *Decides* to include in the provisional agenda of its sixtieth session the item entitled "Measures to eliminate international terrorism".

65th plenary meeting
2 December 2004

Annex

African Union

Second High-Level Intergovernmental Meeting on the Prevention and Combating of Terrorism in Africa, and inauguration of the African Centre for Studies and Research on Terrorism, Algiers, 13 and 14 October 2004

Andean Community

Subregional workshop on the regional fight against terrorism, Lima, 26 and 27 January 2004

Association of Southeast Asian Nations

Fourth ASEAN Ministerial Meeting on Transnational Crime, Bangkok, 8 January 2004

First ASEAN Plus Three Ministerial Meeting on Transnational Crime, Bangkok, 10 January 2004

European Union

European Council meetings with a focus on terrorism, Brussels, 25 and 26 March and 17 and 18 June 2004

Organization of American States

Fourth regular session of the Inter-American Committee against Terrorism, Montevideo, 28-30 January 2004

Shanghai Cooperation Organization

Summit Meeting of the Shanghai Cooperation Organization for the establishment of the Regional Anti-Terrorism Structure, Tashkent, 17 June 2004

South Asian Association for Regional Cooperation

Twelfth SAARC Summit, Islamabad, 4-6 January 2004

Other meetings

Bali Regional Ministerial Meeting on Counter-Terrorism, convened by Indonesia and Australia, Bali, Indonesia, 4 and 5 February 2004

General Assembly

Distr.: General
16 December 2004

Fifty-ninth session
Agenda item 149

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/515 and Corr.1)*]

59/47. Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel

The General Assembly,

Recalling its resolution 58/82 of 9 December 2003 on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, as well as the adoption by the Security Council of resolution 1502 (2003) on 26 August 2003,

Recalling also its resolution 57/338 of 15 September 2003, in which it strongly condemned the atrocious and deliberate attack against the headquarters of the United Nations Assistance Mission in Iraq in Baghdad on 19 August 2003,

Recalling further its resolution 49/59 of 9 December 1994, by which it adopted the Convention on the Safety of United Nations and Associated Personnel,

Recalling the letter dated 24 October 2000 addressed to the President of the Security Council on behalf of the global staff of the United Nations system,[1] drawing attention to the safety and security problems faced by United Nations and associated personnel,

Recalling also the report of the Secretary-General[2] on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel and the recommendations contained therein, and also recalling the further report of the Secretary-General[3] on this issue,

Reaffirming the need to promote and ensure respect for the principles and rules of international law, including international humanitarian law, as well as relevant provisions of human rights and refugee law,

Reaffirming also the obligation of all humanitarian personnel and United Nations and associated personnel to respect the national laws of the country in which they are operating, in accordance with international law and the Charter of the United Nations,

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[1] S/2000/1133, annex.
[2] A/55/637.
[3] A/59/226.

Deeply concerned by the increasing dangers and security risks faced by United Nations and associated personnel at the field level, and mindful of the need to provide the fullest possible protection for their security,

Expressing its concern that locally recruited personnel are particularly vulnerable to attacks directed at the United Nations,

Paying tribute to the courage of those who have served and who continue to serve in United Nations operations throughout the world, in particular those who have lost their lives in the course of their duties,

Deeply concerned that perpetrators of attacks against United Nations and associated personnel seemingly operate with impunity,

Welcoming the tenth anniversary of the adoption of the Convention, which entered into force on 15 January 1999, and noting that the Convention has been ratified or acceded to by seventy-seven States as at the date of the present resolution,

Underlining the need to promote the universality of the Convention and thereby strengthen the safety and security of United Nations and associated personnel,

Having considered the report of the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel,[2] established pursuant to resolution 56/89 of 12 December 2001, and the report of the Working Group of the Sixth Committee,[3] and bearing in mind the recommendations of the Working Group contained in paragraphs 7 and 8 of its report,

1. *Expresses its appreciation* for the work done by the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel;

2. *Urges* States to take all necessary measures, in accordance with their international obligations, to prevent crimes against United Nations and associated personnel from occurring;

3. *Also urges* States to ensure that crimes against United Nations and associated personnel do not go unpunished and that the perpetrators of such crimes are brought to justice;

4. *Affirms* the obligation of all States to comply fully with their obligations under the relevant rules and principles of international law in relation to the safety and security of United Nations and associated personnel;

5. *Calls upon* all States to consider becoming parties to and to respect fully their obligations under the relevant international instruments, in particular the Convention on the Safety of United Nations and Associated Personnel;

6. *Recommends* that the Secretary-General continue to seek the inclusion of, and that host countries include, key provisions of the Convention, including those regarding the prevention of attacks against members of an operation, the establishment of such attacks as crimes punishable by law and the prosecution or

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[2] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 52* (A/59/52).

[3] A/C.6/59/WG.2/CRP.1.

extradition of offenders, in future as well as, if necessary, in existing status-of-forces, status-of-mission and host country agreements negotiated between the United Nations and those countries, mindful of the importance of the timely conclusion of such agreements;

7. *Recommends also* that, consistent with his existing authority, the Secretary-General advise the Security Council or the General Assembly, as appropriate, where in his assessment circumstances would support a declaration of exceptional risk for the purposes of article 1 (c) (iii) of the Convention;

8. *Confirms* that, consistent with his existing authority, the Secretary-General, who has knowledge of the facts and easy access to the information, may provide information, upon the request of a State, on matters of fact relevant to the application of the Convention, such as the fact and content of any declaration of exceptional risk by the Security Council or the General Assembly or any agreement concluded between the United Nations and a humanitarian non-governmental organization or agency;

9. *Notes* that the Secretary-General has prepared a standardized provision for incorporation into the agreements concluded between the United Nations and humanitarian non-governmental organizations or agencies for the purposes of clarifying the application of the Convention to persons deployed by those organizations or agencies, and requests the Secretary-General to make available to Member States the names of organizations or agencies that have concluded such agreements;

10. *Urges* the Secretary-General and relevant bodies to continue to take such other practical measures as are within their authority and existing institutional mandates to strengthen protection for United Nations and associated personnel, including locally recruited personnel, who are particularly vulnerable and account for the majority of casualties among United Nations or associated personnel;

11. *Decides* that the Ad Hoc Committee established under resolution 56/89 shall reconvene for one week, from 11 to 15 April 2005, with a mandate to expand the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, including, inter alia, by means of a legal instrument, and that the work shall continue during the sixtieth session of the General Assembly within the framework of a working group of the Sixth Committee;

12. *Requests* the Ad Hoc Committee to submit a report on its work to the General Assembly at the sixtieth session;

13. *Requests* the Secretary-General to report to the General Assembly at its sixtieth session on the measures taken to implement the present resolution;

14. *Decides* to include in the provisional agenda of its sixtieth session the item entitled "Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel".

83rd plenary meeting
2 December 2004

General Assembly

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16 December 2004

Fifty-ninth session
Agenda item 151

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/517)*]

59/48. Observer status for the Shanghai Cooperation Organization in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the Shanghai Cooperation Organization,

1. *Decides* to invite the Shanghai Cooperation Organization to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

65th plenary meeting
2 December 2004

United Nations A/RES/59/49

General Assembly

Distr.: General
16 December 2004

Fifty-ninth session
Agenda item 152

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/518)*]

59/49. Observer status for the Southern African Development Community in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the Southern African Development Community,

1. *Decides* to invite the Southern African Development Community to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

65th plenary meeting
2 December 2004

United Nations A/RES/59/50

General Assembly

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16 December 2004

Fifty-ninth session
Agenda item 157

Resolution adopted by the General Assembly

[on the report of the Sixth Committee (A/59/519)]

59/50. Observer status for the Collective Security Treaty Organization in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the Collective Security Treaty Organization,

1. *Decides* to invite the Collective Security Treaty Organization to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

65th plenary meeting
2 December 2004

General Assembly

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16 December 2004

Fifty-ninth session
Agenda item 159

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/520)*]

59/51. Observer status for the Economic Community of West African States in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the Economic Community of West African States,

1. *Decides* to invite the Economic Community of West African States to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

65th plenary meeting
2 December 2004

General Assembly

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16 December 2004

Fifty-ninth session
Agenda item 160

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/521)*]

59/52. Observer status for the Organisation of Eastern Caribbean States in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the Organisation of Eastern Caribbean States,

1. *Decides* to invite the Organisation of Eastern Caribbean States to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

65th plenary meeting
2 December 2004

United Nations A/RES/59/53

General Assembly

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16 December 2004

Fifty-ninth session
Agenda item 162

Resolution adopted by the General Assembly

[*on the report of the Sixth Committee (A/59/544)*]

59/53. Observer status for the South Asian Association for Regional Cooperation in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the South Asian Association for Regional Cooperation,

1. *Decides* to invite the South Asian Association for Regional Cooperation to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.

65th plenary meeting
2 December 2004